

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.12.2019

CORAM :

THE HONOURABLE DR.JUSTICE ANITA SUMANTH

W.P.NoS.33227, 33231 & 33233 of 2019
and
WMP.Nos.33685, 33690 & 33691 of 2019

M/s.Sun Blue,
Rep. by its Manager (Commercial),
S.F.No.32/1, Musiri Village,
Walajah Taluk,
Vellore - 632 403.

... Petitioner in all WPs

Vs.

- 1.The Tamilnadu Sales Tax Appellate Tribunal
(Additional Bench),
Chennai, Chennai-600 104.
- 2.The Assistant Commissioner (CT),
Ranipet Assessment Circle,
Ranipet.

... Respondents in all WPs

Prayer in WP.No.33227 of 2019: Writ Petition filed under Article 226 of the Constitution of India, for the issuance of Writ of Certiorarified Mandamus, to call for the records of the first respondent in T.P.No.35/2019 in T.A.No.108/2019 and quash the impugned order dated 01.11.2019 and further direct the first respondent to grant an absolute stay of collection of the entire disputed penalty in respect of the asst year TIN 2010-2011 without imposing any further condition of furnishing of security in the form of bank guarantee pending disposal of the appeal on his files.

Prayer in WP.No.33231 of 2019: Writ Petition filed under Article 226 of the Constitution of India, for the issuance of Writ of Certiorarified Mandamus, to call for the records of the first respondent in T.P.No.36/2019 in T.A.No.109/2019 and quash the impugned order dated 01.11.2019 and further direct the first respondent to grant an absolute stay of collection of the entire

disputed penalty in respect of the asst year TIN 2011-2012 without imposing any further condition of furnishing of security in the form of bank guarantee pending disposal of the appeal on his files.

Prayer in WP.No.33233 of 2019: Writ Petition filed under Article 226 of the Constitution of India, for the issuance of Writ of Certiorarified Mandamus, to call for the records of the first respondent in T.P.No.37/2019 in T.A.No.110/2019 and quash the impugned order dated 01.11.2019 and further direct the first respondent to grant an absolute stay of collection of the entire disputed penalty in respect of the asst year TIN 2012-2013 without imposing any further condition of furnishing of security in the form of bank guarantee pending disposal of the appeal on his files.

(In all WPs)

For Petitioner :Mr.P.Rajkumar

For Respondents :Mr.M.Hariharan

Additional Government Pleader (Taxes)

COMMON ORDER

The petitioner challenges orders of the Tamil Nadu Sales Tax Appellate Tribunal (Additional Bench) directing it to furnish a bank guarantee in respect of the amount of penalty demanded in assessment.

2.Admittedly, the disputed taxes in all three cases have been remitted. A challenge was initially raised on maintainability of the writ petition as against an order of the Sales Tax Appellate Tribunal, stating that only a tax case revision would lie and not a writ petition before the learned Single Judge. This preliminary objection is liable to be rejected in the light of Section 60 of the Tamil Nadu Value Added Tax Act, 2006, ('Act') which provides for a revision by the High Court of an order passed in terms of Section 58(4), (5) or (7) of the Act, all of which constitute final orders. Thus, as against the interim order of the Sales Tax Appellate Tribunal, a writ petition before the learned Single Judge would lie. This also has been the consistent understanding of this Court till date as writ petitions are routinely being entertained as against interim orders of the Sales Tax Appellate Tribunal.

3.On merits, in the light of the fact that the entire disputed taxes have been remitted and in the light of there being no objection expressed by the learned Additional Government Pleader (T) to substitution of the condition of furnishing personal bond as against bank guarantee ordered by

the Tribunal, the prayer of the petitioner is accepted. The order of the sale tax appellate tribunal impugned will stand modified to this limited extent only. The petitioner will furnish personal bond within a period of two weeks from today.

4. These writ petitions are disposed in the aforesaid terms. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

1. The Tamilnadu Sales Tax Appellate Tribunal
(Additional Bench),
Chennai, Chennai-600 104.
2. The Assistant Commissioner (CT),
Ranipet Assessment Circle,
Ranipet.

+1cc to Mr.P.Rajkumar, Advocate sr.101934

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jp(co)
nr 09/12/2019